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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,554	02/06/2001	Barbara Scott	BBC-077/A.	8200

7590 12/06/2004  
GAYLE B. O'BRIEN  
ABBOT BIORESEARCH CENTER  
100 RESEARCH DRIVE  
WORCESTER,, MA 01605-4314

EXAMINER

SHIAO, REI TSANG

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/777,554

**Applicant(s)**

SCOTT ET AL.

**Examiner**

Robert Shiao

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on responses filed on 9/22, 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 23-37, 59 and 60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 38-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This application claims benefit of the provisional application: 60/180,841 with a filing date 02/07, 2000.
2. Amendment of claim 1 in the amendment filed on September 22, 2004, is acknowledged. Claims 1-60 are pending in the application.

### *Responses to Amendment*

3. Since the instant compounds of formula (I) do not represent compounds Thiourea, (6-methyl-2-benzothiazolyl)-, or Benzamide, N-[[[(6-methyl-2-benzothiazolyl) amino]thioxomethyl]-, therefore, rejection of claims 1-22 and 38-58 under 35 U.S.C. 102 (a,b) has been overcome in the amendment filed on September 22, 2004.
4. Applicants still claim instant compounds of formula (I), variable Q represents hydrogen; the variable Y represents S; the variable W represent H, Cl, NO<sub>2</sub>, substituted alkyl; the variable X<sup>1</sup> represent hydrogen or alkyl; the variable R<sup>3</sup> represents hydrogen, or alkyl; R<sup>1</sup> and R<sup>2</sup> independently represent hydrogen or optionally substituted alkylamino, alkyl, amino, NHX<sup>3</sup>, or NX<sup>3</sup>X<sup>3</sup>, and X<sup>3</sup> represents hydrogen, alkyl, or aryl. Therefore, rejection of claim 1-22, and 38-58 under 35 U.S.C. 103(a) over Das et al. US 2002/0123484 A1, is maintained, see columns 18-19. Elimination of the species Examples 7-8 of Das et al. from instant compounds of formula (I) does not overcome the 35 U.S.C. 103(a) rejection set forth in the Office action, dated June 22, 2004. It is noted that the 102(e) date of Das et al. '484 is November 10, 1997, which is prior to the instant priority, dated February 07, 2000.

***Responses to Arguments***

5. Applicant's arguments regarding rejection of claims 1-22 and 38-58 under 35 U.S.C. 102 (a, b) as being anticipated by Duncia et al. US 6,214,851(i.e., CAS: 133:252423), filed on September 22, 2004, have been fully considered and they are persuasive. Since the variable R<sup>3</sup> does not represent cycloalkyl when the variable Y represents O, the variables Q and X<sub>1</sub> independently represent hydrogen, therefore, rejection of claims 1-22 and 38-58 under 35 U.S.C. 102 (a,b) as being anticipated by Duncia et al. US 6,214,851(i.e., CAS: 133:252423) is withdrawn herein.

***Objection***

6. Claims 1-22, and 38-58 are objected to as containing non-elected subject matter heteroaryl or heterocycle, i.e., pyridyl, triazole, furanyl, imidazole, morpholine, pyrrolidine, etc. It is suggested that applicants amend the claims to the scope of the elected subject matter set forth in the paragraph four of the Office action, dated June 22, 2004.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

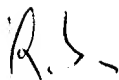
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rita Desai  
Primary Patent Examiner  
Technology Center 1600  
Tel: (571) 272-0684

12/2/04



Robert Shiao, Ph.D.  
Patent Examiner  
Art Unit 1626

December 2, 2004